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AN EXCURSIVE
MEMOIR,
LEGAL, HISTORICAL, AND POLITICAL,
ON THE
PARLIAMENTARY DECLARATION
OF THE
Liberties of England,
(3 CHARLES I.);
CONSTITUTIONALLY TERMED
THE PETITION OF RIGHT:

Λ

"The Parliament holden in the third year of our Sovereign Lord King
"CHARLES was called *Benedictum Parliamentum*, the blessed Parliament."
Sir Edward COKE: 3 Inst. 3.

"The Parliament 30: CAROLI, I have heard by unprejudiced Men, to
"have been an assembly of the most loyal, prudent, and upright English
"Spirits that any age could have produced. Their actions are upon re-
"cord, and by them will posterity judge concerning them. And if we had
"no other effects and Laws from them but THE PETITION OF RIGHT, it
"were sufficient to eternize their memory among all Men that wear an
"English heart in their bosoms." *Andrew MARVELL; Works: II. 353.*

BY
T. HOLT WHITE, Esq.

Tottenham:

PRINTED BY G. COVENTRY.

1837.

Λ including some Notices of the efforts, in this, of the Union of the Sovereign
Companies to retrieve the legal protection for individual Liberty
in France.

Br 1815.222

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JUN 1943

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~~"non modo casus eventusque rerum,
"qui plerumque fortuiti sunt, sed
"ratio etiam causasque noscitur.
Tacit. Hist. 4. 4.~~

AN EXCURSIVE MEMOIR,

&c. &c.

SHORTLY after *Charles* ascended the throne he entered on March 25, 1629, a series of arbitrary and oppressive measures. His opening Speech to his first Parliament was by no means of a conciliatory tendency. The germ is, I think, there of that hostile spirit which afterward unfolded itself. We can easily conceive him to have read it with a dissatisfied air, with a supercilious brow, and in a tone of austerity; while he cast a dark and discontented countenance on the Commons. He, it is most likely, perceived the horizon to be blackening around him, and was unable to suppress entirely his impatience at the troubled, perhaps formidable, aspect presented to his view, and which threatened to drive him from his fixed object of obtaining a confirmed mastery over Parliaments, and of rendering them obsequious to his will. After his own Speech, the

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of the great Seal
 Lord Keeper, Bishop *Williams*,¹ by his command, intimated the line of conduct it was expected of the Commons to adopt by announcing his Majesty's desire, that they should "bestow this meeting on him." As an inducement for them to acquiesce, the Keeper held out that the next Session "should be theirs as soon and as long as they please for domestic business." This (it will be seen) was the first step in the King's course of tortuous policy with the People's Representatives; by which he deservedly forfeited their confidence, and lost their affections. But when this House had proceeded on the redress of Grievances antecedent to the grant of adequate Supplies; in order to ward off the accusatory complaints which they meditated to lay before him relative to the mal-administration of *Buckingham*; who was in their estimation the great author of every public Grievance, and national misfortune; he abruptly dissolved the Parliament, after a brief existence; three and thirty days being the whole of their Session, both at Westminster and at Oxford; whither their sitting was, after a recess of a few days, transferred, on account of the Plague which then raged so virulently in London, that it was remarked by a Member, that the death bells were tolling every minute in their hearing.² There the House of Commons fell into high Debates on various questions. "At the "Parliament at Oxford," intimates Sir Henry *Wotton*,

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¹ *Rushworth* (I. 172) and *Frankland* (109) both say *Coventry*; erroneously; for *Williams* was not deprived of the custody of the Seal till the 27th of October following. Sir T. *Coventry*, then Attorney General, was ~~appointed~~ ~~Chancellor~~ a day or two afterward; see *Rushw. ib.* 198; and the preliminary notices to the 4th vol. of *Crokers* Reports.

² *Rushw. I.* 173.

was advanced to the Seal

the biographical Encomiast of *Buckingham*,³ "his youth
 "and want of experience in maritime service had been
 "somewhat shrewdly touched, even before the sluices
 "and floodgates of popular Liberty were yet set open." During the Adjournment to this University, Sir Robert *Cotton* addressed the House with much ability. There had been on the preceding day, some disorderly and intemperate language uttered by a Mr. *Clarke*, attached with immoderate ardour to the Court; "trenching on
 "their antient Liberties:" for which he had incurred the censure of the House, and had been by a general call brought to their Bar to make submission.⁴ *But*

*A new
 paragraph
 here.*

~~But~~ Sir Robert introduced his Speech by deprecating all departure from urbanity in debate, and was studious to avoid the least appearance of indecorum, or of disrespect to the higher powers of State. For the larger part, it was pointedly aimed at the invidious Favourite, and though sufficiently bold in its tenour, he was calm in the discussion, and submissive in his style. He animadverted in it on the numerous malpractices under *Buckingham's* absolute sway, by apt passages drawn from English History, which the majority of his auditory were prompt to apply, and he brought his intimate and extensive enquiries into its records, and antient constitutions, to bear forcibly, and especially, on the grand Grievance of the Nation, as it was then generally deemed, the being ruled by a Minister paramount to all the other Counsellors of the State. In the following peroration he very adroitly ex-

³ *Relat. Wot.* 222. 3rd ed. But this Tract has been attributed to *Clarendon*; see *Hurd*; *Wo.* III. 235; and the same opinion is strongly insinuated in "A just Defence of the Royal Martyr, K. *Charles*, I." Pt. I. 58. 8vo. 1699.

⁴ *Com. Journ.* I. 811.

pressed his great satisfaction that the Commons had
 "neither just cause or undutiful dispositions to appoint
 "the King a Counsel to redress those errors in Parlia-
 "ment, as those of the 42 H. 3. We do not desire, as
 "5 H. 4, or 29 H. 6, the removing from about the King
 "of *evil Counsellours*. We do not request a choice by
 "name, as 14 E. 3. 35., 11 R. 2., 8 H. 4., or 31 H. 6.,
 "nor to swear them in Parliament, as 35 E. 1., 9 E. 2.,
 "or 5 R. 2., or to line them out their directions of rule,
 "as 43 H. 3. and 8 H. 6., or desire that which H. 3.
 "did promise in his 42nd year, *se acta omnia per assen-*
 "*sum Magnatum de Concilio suo electorum; et sine eor.*
 "*assensu nihil*. We only in loyal duty offer up our hum-
 "ble desires, that since his Majesty hath with advised
 "judgement elected so wise, religious, and worthy Ser-
 "vants to attend him in that high employment, he will
 "be pleased to advise with them together, a way of re-
 "medy for those disasters in State, led in by long security
 "and happy peace, and not with *young and single coun-*
 "*sel.*"⁵ ~~The next part of the sentence~~ palpably hints
 at the royal neglect of all council other than *Bucking-*
ham's. *Cotton*, in this Speech, was constrained (we see)
 even in Parliament to adumbrate his criminatory opinion
 of the passing abuses in the administration of the Govern-
 ment under the guise of a reference to historical in-
 vestigations of the proceedings in former Parliaments.
 So *Massinger* veiled a disparaging character of the Duke
 in a biography of "the Powerful Favourite; or the Life
 "of *Ælius Sejanus*."⁶ How mild these whisperings!

⁵ *Cottoni Posthuma*; 281. Compare *Buckingham's* Address to the two Houses; *Rushw.* I. 228.

⁶ By P[hilip] M[assinger], sm. 4to. 1628: and in the title-page it purports to have been "printed at Paris."

Ital.

When we recollect the unrestrained modes of inculcating political knowlege, and the hardy canvassing of the official actions of Public Servants in modern times, we must felicitate the country and the age in which this Right of Discussion is recognized to the fullest extent.

In the next week the King dissolved the Parliament by Commission; after a message from him for further Supplies, and when after some long and keen Debates they had come to the decision, that a Declaration should be presented to him averring their readiness to give "with one heart, and one voice," all necessary Supplies in a Parliamentary manner; and likewise to use freely and dutifully their utmost endeavours to discover and reform the abuses of the Realm and State. He had now ascertained their fixed purpose not to grant any more Subsidies, and leave their Grievances unredressed; and in addition, what was equally painful to him, that the House contained a patriotic Majority who were not to be diverted from following up their crimination of *Buckingham* by Motions against him. He therefore dismissed them; with a haste to which his Son's, when he in 1681, dissolved *his* Oxford Parliament, forms an apt counterpart.

But the King's anger did not cease with the Dissolution. He then grossly violated the Freedom of Parliament, by ordering several Members of the Commons' House into confinement at a distance from their own seats, who had shown themselves inimical to his requisitions for additional Supplies, unaccompanied with satisfactory answers to their complaints of misgovernment, and of his high strains of Prerogative. For, in the introductory narrative of the admirable Authoress to her

7 Sanderson; 17. Rushw. 191.

Memoirs of Colonel *Hutchinson's* Life, we ~~are told~~ that having "broken up a Parliament to the disgust of the " People, he durst not trust those Gentlemen who had " been most faithful defenders of their Country's interests to return for some time to their own residences" among their Constituents. " Of these worthy Patriots," the Colonel's Father, " Sir Thomas *Hutchinson*, was " with Sir Thomas *Grantham*, confined from Nottingham " and Lincolnshire to the house of one Sir Adam *Newton* " in Kent." We are, I believe, indebted to this Lady's delightful piece of biography for the knowledge of this fact, so illustrative of *Charles's* early determination to fashion Parliaments to his pleasure, and to advance his will above them. These Commitals to private custody, were to answer a double purpose: the absence of these Gentlemen from the neighbourhoods where their natural connexions and local influence lay, might impede their re-election on the next occasion; a very probable calculation: while they also held out ominously the terrors of a like punishment to all who in future Parliaments did their duty to the Public Cause. Another motive is perhaps ascribable to his habitual animosity against all who, acting up to their high calling, as the appointed Guardians of their free Constitution, thwarted his settled scheme of reducing Parliaments to implicit obedience.

Howell, an Author once popular, and still known from his multifarious productions, in sending from Oxford a letter of intelligence for the information of his Uncle, Sir Sackville *Trevor*, deplored this event in the following terms: " I am sorry I must write to you the sad tidings " of the Dissolution of the Parliament here, which was " done suddenly: Sir John *Eliot* was in the heat of a " high Speech against the Duke of *Buckingham*, when

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"the Usher of the Black Rod knocked at the door, and "signified the King's pleasure, which struck a kind of "consternation in all the House."⁸ The retainers of the Court might have had it in orders to propagate such a report; yet, if the Members were in truth startled, their counsels were neither dashed, nor perplexed; for we learn from Sir Philip *Warwick's* account of the same transaction,⁹ that when they were thus on a sudden called to their Dissolution, "the Men of a Tribunitial spirit," as this Writer, once Secretary to *Laud*, and subsequently Clerk of the Signet to *Charles* ~~R~~ thought them; who rejoicing that "we have no such Officers," says that these Members would not suffer the Speaker, Sir Thomas *Crewe*, to re-assume the Chair to admit the Messenger from the Lords' House, till Sergeant *Glanville* had framed, a short Protestation, which the Commons then sitting in "grand "Committee" voted without a dissenting voice. It may, however, be conjectured, and not without good grounds, that some friend at the Council-Table had found the means to convey to the Members advice of what was intended. Certainly there were individuals within the verge of the Court, whose best wishes they possessed; either from motives of enmity to *Buckingham*, or on more important and exalted considerations. It might have been the Lord Keeper; or, if it were not *Williams*, now his competitor for power, some other among them, very probably had communicated to the Leaders of the Country's Party the determination to dismiss the Parliament precipitately: just as it is known, that the celebrated Countess of *Carlisle* apprized *Pym* of *Charles's* hostile purpose in

✓ the Se-
cond

⁸ *Epæ: Ho-elæ: 191. 10th ed.*—Appendix A.

⁹ *Mcm. 13. 1st ed.*

^ See

*the former was**followers/
(existed-
sined)/*

respect to the five Members of the Long Parliament, then the most obnoxious to him, at the moment he was about to put himself at the head of his armed ~~retainers~~ ^{Officers} military Courtiers quartered in Whitehall, and in the vicinity of that Palace, whom he took with him when he made his irruption into the House of Commons to demand *Hampden* and some other Members, to be delivered up to him, or to seize on them by force; in open violation of the Authority and Freedom of Parliament.

*from the
Northern
Army, &c*

When the resolution was taken to dissolve this Parliament, *Williams* deprecated this impolitic measure, and implored the King to remember what his royal Parent, in the hearing of himself had charged him: to call Parliaments frequently; and to continue them; even, if they sometimes gave him offence; for his own experience had taught him, "he never got good by falling out with them." But the far-sighted Bishop of Lincoln more especially, and under a strong conviction, supplicated him never to permit it to be said, that he had not kept on good terms with this his first Parliament. He adjured him with earnestness to reflect on the consequences: "do not," said he, "disseminate so much unkindness thro' all the Counties and Boro's of your Realm. The love of the People is the Palladium of your Crown. Continue this assembly to another Session, and expect alteration for the better. "If you do not so," then he predicted, "the next swarm ² will come out of the same hive."¹⁰ In this advice nearly all the Lords of the Council concurred. They foresaw, ~~that~~ *Williams*, how great would be the alienation of the public mind. But the infatuation of favouritism shut the King's ear against the warning voice of this 'nar-

*ill/**in com-
mon with**Italy/*

ration before the event,' if I may here employ an eminent and noble Author's definition of prophetic annunciations.

This improvident act must have been contemplated with anxiety by every considerate mind, and have called forth melancholy forebodings; as ~~affording~~ too evident and an afflicting presage of the dreary prospect before them. It was, indeed, an early and unequivocal indication of a design to shake off all Parliamentary control, if Parliaments would not bow to his humour; and was consequently a sure indication of his purpose to render himself absolute. But this hasty step involved him yet deeper in pecuniary distress, and when to avoid the contagion (London continuing to suffer under the ravages of the Plague) his Court removed to Salisbury, he there pressed the City of Bristol for a Loan to answer the charges of his Household; and the Aldermen who came to him from that City to beg a remission of the payment were flung into a gaol, where they lay till the sum he had demanded was brought to him.¹¹

Now thrown upon his own resources, to what ~~exceeding~~ *severe straits!* difficulties he was reduced to defray his ordinary expenses and to maintain his retinue, appears in Letters to the Earl of Leicester from Sir John North, who says in one of these, dated from Wilton, "the Term is not spoken of, nor any Parliament, only Privy Seals are sending forth to supply the King's pressing occasions;" and to such galling extremities was he driven that Sir John informs his Lordship, that he hears "some of his Majesty's gilt plate shall be sold to bring in money."¹² Another Letter-Writer,

¹¹ Oldmixon; Hist. Stu. 80. *Stal.*

¹² Collins's Sydney Pap. II. 360. *Stal.*

A The marginal authority there "Keyhole" means the Author of "The Life & Reign of King Charles," printed by Keyhole; see *ib.* p. 82. which I have not been able to procure.

Sir Francis Cottington, then, like North, in attendance on the Court, writes to the same Nobleman, to this effect: "here is no speech of a Parliament, but it is likely some other way will be sought to supply the King's wants." ¹³ His Chaplain, a zealous ~~partisan~~ *Heylin*, complains that he had already been obliged to alienate as much of the Crown Lands to the City of London, at easy purchases, as brought in one hundred and twenty thousand pounds. The sturdy Citizens had refused to advance him any money on credit, neither would they take these lands on mortgage ~~only by way of security~~.

Absolute Monarchs, to extricate themselves, when struggling with financial difficulties, have often resorted to raising the denomination of the current money, or to deteriorating by baser metal, the value of its substance, and it would have been extraordinary if Charles had not now meditated to put these 'bold frauds of bankrupt power' in practice. Accordingly, that he might be able to meet the demands for his daily and necessary expenditure, one project was a proposition, suggested by some "ill-patriot Goldsmiths" (Bankers), that to relieve him under this sore pressure he should make it imperative by virtue of his Prerogative for the specie to pass at a higher rate than the actual currency. But Sir Robert Cotton, who was specially summoned to the Council-Table to learn his opinion, argued unanswerably against any enhancement of the coin beyond its sterling value. And in a speech full of historical experiences from all the antecedent experiments in former Reigns, he showed, that affording to be sure a momentary relief, it led to consequences the most injurious to the Country. He, therefore, called their attention to the incalculable detri-

13 *Ib.* II. 362.

by an "Issue of two Shillings in the Pound."
H. L'Estrange

*to be secured
by a mortgage
on the royal
Demerco.*

insolvency

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ment to the Public which in the nature of things must invariably follow all fraudulent variations from the established standard: altering, as it does, the meaning of all contracts; giving to one, and taking from another. He then adverted, as of great moment, to the detriment to Trade, both at home and with Foreigners, and how deeply, and how seriously, its mischiefs would penetrate and disjoint the entire fabric, and the countless combinations and bearings and dependencies, in the frame-work of civilized society. Pressing on them, ~~moreover~~, that the practice was to the dishonor of the King, and at the same time intreating them to take into their consideration its inexpediency and impolicy from its pernicious influence on the fiscal interests of the Crown; inasmuch as it would, after a transient alleviation of the existing exigencies, still further impoverish the Exchequer, in virtually diminishing its receipts, tho' the quantum paid in there remained nominally the same. Neither did he forget to point out to the Council that the action of simultaneous rise in all prices would in no long time swell the total of its disbursements in a corresponding ratio; so that, this measure would eventually plunge the Government into still greater perplexities. "The Mint," he entitled "the pulse of the Commonwealth;" a vivid illustration of the vitally-essential importance of a sound circulating medium to the safety and well-being of all the gradations in social existence; and never to be lost sight of by provident and equitable Administrators of public affairs. His reasoning prevailed. England was spared this infliction; and all thoughts were abandoned of any arbitrary alteration in the monetary system, either by giving to the legitimate coinage of the realm a counterfeit value, and then ordaining by authority for it to be received as a legal

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tender, or by any debasement of the intrinsic quality of the precious metals.¹⁴

By a second communication from Sir John North, in less than three weeks after his former, we find that Charles's necessities had so rapidly accumulated on him, that the persuasion he had no possibility of extricating himself from his humiliating destitution, except by calling a Parliament, began to obtain among the inmates of the Palace. Lord Leicester's Correspondent describes the royal indigence to be now such, that "no wages, pensions, nor debts are paid, and hardly is money found to furnish the King's diet, and his officers, who were resolving to put down their tables at Salisbury, had not the Town lent £2000, upon the entreaty and bonds of my Lord Treasurer, and the Chancellor of the Exchequer. Which example was followed by the Townsmen of Southampton, for a loan of £1000. The Privy-Seals are dispersed into all Shires and Corporations to supply another necessity with the money that is expected that way. All which are but shifts, until recourse be had to another Parliament, which already is spoken of, tho' the time is not known."¹⁵

Sir Robert Cotton in his History, in an abbreviated form, of the reign of Henry the third, gives from the relations of the antiquated Chroniclers, a representation of

¹⁴ See Cottoni Posthuma; 283.—The sticklers for an issue of Paper-Money not payable in Gold, and to an extent which must induce depreciation, might consult this document to their advantage. It develops the elementary truths of this question, and affords sounder knowledge than is to be gathered from almost all of the cloud of Pamphleteers who have written about it and about it, in later years: much of whose reasoning is on a par with the old Lady, who wondered why Coblers should be punished when so many people wanted money!

¹⁵ Collins's Sydney Pap. II. 363.

that King's fallen and forlorn condition at one period, which exhibits pecuniary embarrassments and distresses much like those *Charles* now laboured under. They sprang out of the same cause; 'hate, and untamed reluctance, on both their parts, to submit to any Parliamentary restrictions on their excesses of Prerogative. The elder of these Sovereigns feared that Parliament would force him to renew and give validity; perhaps force him to enlarge; the venerated Roll of Freedom, that the national and armed Convention at Runningmede insisted on and obtained; and which incorporated in part the approved usages of their Saxon Forefathers with the institutions of a Feudal Polity. His Successor of the seventeenth century was strongly infected with apprehensions of a similar character; carried in him to a morbid aversion, which he could never conquer. "He feared "nothing in this world," *Lilly*, the noted Astrologer, tells us, "or disdained any thing more, than the convention of a Parliament; the very name was a bug-bear to him."¹⁶ *Henry* was ~~compelled~~ to pawn his Crown-Jewels, and to take up a temporary abode himself with his train in the religious Houses; sometimes to ~~ask~~ ^{apply to} ~~gifts of their Abbots~~ ^{the Ab-}. The resource of *Charles*; in addition to the parting with his plate and jewels; for Dr. *Heylin* confirms the fact that they were sold; was to wring from Cities and Corporate Towns contributions for an uncertain subsistence. Finally; both, after their collision with Parliaments, were constrained to resign themselves to the required stipulations, before they could gain any Parliamentary Aids, and they were alike faithless in their compliance. The One in disregard of his own

¹⁶ *Lives of Lilly and Ashmole*; 186, 8vo. 1774.

w/
 promulgation of his Father's Charter of resuscitated Liberties; attested by the holiest sanctions, at the time of its re-affirmance, and with tremendous anathemas at their violation; and imprecations so stupendous and fearful, that "never," remarks *Daniel*, the Historian and Poet, most emphatically, "were Laws published with more ceremony, except those by God himself from Mount Sinai amid thunders and lightnings," when in a convulsion of nature he delivered the Tables of the Mosaic Law. And the Reader will in the sequel find the Other at last, legislatively and personally, pledged in full Parliament to the observance of the Petition of Right, if not under the terrors of religious obligation, with every circumstance of impressive and reverential solemnity that the two Houses of Parliament could devise and prescribe, to give it a weight and a binding force; in the hope of securing its provisions from violation. Yet did both Kings openly and shamelessly transgress their awful responsibilities and their duties; the more unjustifiably and reprehensibly since both were ~~repeatedly~~ by the Nation with ~~a liberal compensation in~~ Grants of Money, for their corroborations of chartered Rights and immemorial Franchises, and for their sacrifice of pride and imagined Prerogative. Yet after all they did not consider themselves as held the firmer by these ~~remuneratory equivalents~~, nor by any sacred nor moral tie, to conform to these recorded restraints and constitutional limitations of the Powers of the Crown. All sanctions were too weak to restrain either King from violences and oppressions.

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 repeated!

completely
 repeated!

complete
 satisfaction